

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

ANTHONY HEAVNER,

Plaintiff,

v.

Civil Action No. 7:13-CV-145 (HL)

**SOUTHWEST GEORGIA OIL
COMPANY, INC. d/b/a PIGGLY
WIGGLY,**

Defendant.

ORDER

Before the Court is Defendant's Motion for Sanctions against Plaintiff or, in the Alternative, Motion for Show-cause Hearing (Doc. 20). A hearing on this motion was held on March 18, 2014, and the motion is now denied. Defendant asks this Court to sanction Plaintiff for the alleged attempted bribery of a potential witness in this case, Kathy Hardwick ("Hardwick"). Defendant specifically requests Plaintiff to be sanctioned by the dismissal of his lawsuit with prejudice.

"The dismissal of a party's complaint or answer, or striking its defenses, as a sanction...is a heavy punishment, appropriate only as a last resort." Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc., 561 F.3d 1298, 1306 (11th Cir. 2009) (quotations and citations omitted). Certainly there is precedent for a district court to take the weighty step of dismissing a party's pleading where there is clear evidence of an attempt to submit false testimony. See, e.g., Forsberg v.

Pefanis, 261 F.R.D. 694, 700-02 (N.D.Ga. Oct. 2, 2009) (the purported declarant denied signing a forged statement and an expert testified the handwriting did not match); Quiroz v. Superior Bldg. Maintenance, No. 06-21594-CIV, 2008 WL 3540599, at *1 (S.D.Fla. Aug. 12, 2008) (the evidence of attempted bribery included, *inter alia*, an FBI transcript of a telephone call between the plaintiff and a witness he sought to suborn). However, Defendant's only evidence of attempted fraud here is the statement from Hardwick that has been denied by Plaintiff and has not been corroborated by any independent evidence. The Court finds the testimony offered at the hearing to be insufficient grounds to enter sanctions against Plaintiff.

SO ORDERED, this the 26th day of March, 2014.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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